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REMARKS

Pending claims 1-154 have been cancelled from the application, and new claims 155-189 have been substituted therefore. No new matter has been added. It is to be noted that claims 155-189 are provided for purposes of clarification, and in order to present to the examiner a clean set of claims which reflect all of the presently presented claim features.

It is submitted that many of the presently pending claims in the present application define features which are neither taught nor suggested by the prior art of record or Applicant's Admitted Prior Art (AAPA).

For example, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 155, 168, 177, 182 of the present application which further defines the features of: identifying timestamp information in the first portion of content, wherein the timestamp information includes an hours portion of a time value and a minutes portion of the time value; determining whether the hours portion of the time value is an integer within a range from 1 to 12, inclusive; determining whether the minutes portion of the time value is an integer within a range from 0 to 59, inclusive; and determining whether the timestamp information includes a colon character interposed between the hours portion and minutes portion of the time value.

Additionally, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 156 of the present application which further defines the features of: identifying timestamp information in the first portion of content; and verifying correct formatting of the timestamp information using a first regular expression corresponding to:  $([1-9]|1[0-2]):[0-5][0-9]$ .

Additionally, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 157 of the present application which further defines the features of: identifying timestamp information in the first portion of content; and verifying correct formatting of the timestamp information using a first regular expression corresponding to:  $(A|P)M$ .

Additionally, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 158, 169, 178, 183 of the present application which further defines the features of: identifying timestamp information in

the first portion of content; and determining whether the timestamp information includes a time data string followed by the characters "AM" or "PM".

Additionally, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 160, 170, 179, 184 of the present application which further defines the features of: identifying a ticker symbol in the first portion of content; and determining whether a length of the ticker symbol is between 1-4 characters, inclusive.

Additionally, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 161 of the present application which further defines the features of: identifying a ticker symbol in the first portion of content; and verifying correct formatting of the ticker symbol using a first regular expression corresponding to:  $([A-Z]\{1,4\}|[A-Z]\{4\}X)$ .

Additionally, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 164, 172, 180, 186 of the present application which further defines the features of: identifying currency information in the first portion of content, wherein the currency information includes a monetary value; and determining whether the monetary value includes a dollar sign followed by a numerical value greater than or equal to zero, followed by a decimal point, followed by two numeric digits.

Additionally, it is submitted that neither the prior art of record nor AAPA teach or suggest the combination of features as recited, for example, in claim 165 of the present application which further defines the features of: identifying currency information in the first portion of content, wherein the currency information includes a monetary value; and verifying correct formatting of the monetary value using a first regular expression corresponding to:  $(\$([0-9]\{1-9\}[0-9]^*).[0-9]\{2\})$ .

The remaining pending claims in the present application which include features that are similar to one or more of the features defined, for example, in one or more of the claims discussed above, are also believed to be allowable for at least those reasons stated above. It is noted that the additional limitations recited in the other independent and/or dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from the prior art of record and AAPA.

Because claims 155-189 are believed to be allowable in their present form, many of the examiner's rejections in the Office Action have not been addressed in this response. However, applicant respectfully reserves the right to respond to one or more of the examiner's rejections in subsequent amendments should conditions arise warranting such responses.

Additionally, it is respectfully submitted that the examiner is interpreting the teachings of the cited prior art references (e.g., Welter, Tiemann, Theimer, Slivka, etc.) using impermissible hindsight reconstruction in combining the prior art references and applicant's AAPA in order to reject the pending claims under 35 U.S.C. Section 103.

For example, it is submitted that there are virtually an unlimited number of regular expression "expressions" which a skilled person could create for performing a specific task. Further it is submitted that not every possible way of defining or creating a regular expression would be obvious to one having ordinary skill in the art. The Examiner has failed to explain why, without the benefit of knowledge of applicant's disclosure (as defined, for example, in the Specification of the present application), it would have been obvious to a person of ordinary skill in the art to create the specific regular expressions (and/or rules-based equivalents thereof) as defined in the pending claims.

For example, there currently exists a finite number of stock ticker symbols which are currently and actively used to identify business entities on the New York Stock Exchange (NYSE). Each of these finite number of active stock symbols on the NYSE may readily be ascertained by one having ordinary skill in the art. If this person of ordinary skill in the art were then asked to create a regular expression which could be used to identify one or more stock ticker symbols of a financial-related web page, is the Examiner of the opinion that every possible variation for defining a regular expression to identify one or more stock ticker symbols of a financial-related web page would be obvious? Applicant believes not, and further believes that it would be unreasonable to make such an assertion. Moreover, since there is virtually an indeterminate number of plausible variations for defining a regular expression to identify one or more stock ticker symbols, is it reasonable to believe that a person of ordinary skill in the art would have created and selected for use the particular regular expression of "[A-Z]{1,4}[A-Z]{4}X" over any other plausible variation, without the benefit of knowledge of applicant's disclosure? Applicant believes not, and further asserts that such a line of reasoning would be equivalent to an "obvious to try" line of reasoning, which is not a legitimate test of patentability. (See, e.g., *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988): "whether a particular combination might be 'obvious to try' is not a legitimate test of patentability.")

By similar analogy, the same reasoning may also be extended to regular expressions involving timestamps and/or monetary values. Accordingly, for at least these reasons, Applicant respectfully submits that the Examiner is attempting to use impermissible hindsight interpretation in asserting that the creation (and subsequent selection as a preferred implementation) of the specific regular expressions (and/or rules-based equivalents thereof) as

defined in the pending claims would have been obvious to one having ordinary skill in the art without the benefit of knowledge of applicant's disclosure.

Additionally, it is noted that the test under 35 U.S.C. Section 103 is not whether an improvement or a use set forth in a patent would have been obvious or nonobvious; rather the proper test is whether the claimed invention, considered as a whole, would have been obvious. (*Jones v. Hardy*, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984)). It is impermissible to focus on specific differences between the claimed invention and the prior art, (*Jones*, 220 U.S.P.Q. at 1024).

Further, it is well established that each of the prior art references must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention, or argue against obviousness. (*W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983)) It is impermissible within the framework of Section 103 to pick and choose from a reference only so much of it as will support a conclusion of obviousness to the exclusion of other parts necessary to a full appreciation of what the reference fairly suggests to one skilled in the art. (*Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 448-49, 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986)).

In the present case, it is submitted that the examiner is not considering the teachings of each of the prior art references as a whole, but rather is picking and choosing only those portions of the cited prior art references which support the examiner's position, while ignoring other portions of the cited prior art references which argue against obviousness and/or against motivation for combining the references as suggested by the examiner.

For example, it is noted that one of the problems to be solved by the present invention relates to the ability to determine the health status of one or more servers of a server farm by analyzing non-deterministic data such as customized or dynamically generated web page data for which the specific content of such data can not be predetermined. (see, e.g., Specification, p. 4)

Conventionally, the health monitor device may be programmed to know what to request and programmed to anticipate expected responses. For example, content verification may typically be performed by comparing expected received static HTML data to preconfigured HTML data stored at the health monitoring device. Because the health monitoring device expects to receive specific HTML data from the selected server in response to a health status request, when the health monitoring device receives the static HTML data from the selected server, it may compare the received static HTML data to expected data corresponding to HTML data which the health monitoring device expected to receive from the selected server in response to a health status request.

However, one problem with the above-described server health monitoring technique is that it does not allow verification of non-deterministic responses, such as CGI generated responses and/or customized or dynamically generated web page data for which the specific content of such data cannot be predetermined. One reason why a conventional health monitoring device is unable to perform this function is that the specific content of a customized or dynamically generated HTML page typically cannot be predetermined. Since the health monitoring device does not know the specific content which it expects to receive, it is unable to perform content verification, and is therefore unable to determine whether the server is functioning properly.

In order to partially overcome the above-described problems, conventional server health monitoring techniques have attempted to perform content verification of customized or dynamically generated HTML pages by checking for deterministic data such as, for example, static content which is expected to be included in each requested HTML page. For example, a content provider such as Yahoo.com may include the text "Copyright Yahoo.com" on each customized or dynamically generated web page. Thus, when the health monitoring device requests, for example, a dynamically generated web page from a selected Yahoo server, it may determine the health of the server by verifying the static portion (e.g. "Copyright Yahoo.com") of the content of the dynamically generated HTML page. However, this modified technique of server health verification remains ineffective for verifying non-deterministic data such as customized or dynamically generated data for which the content of such data cannot be predetermined.

During a previous telephonic interview with the examiner, it was agreed that the problem to be solved by Welter has nothing to do with the problem to be solved by the present invention which relates to determining the health status of a network device or server. More specifically, the problem to be solved by Welter relates to the ability to more accurately test and detect errors associated with any given website.

For example, as stated in Welter 1:29-35:

*Since web pages are, essentially, programs written in the HTML language, it is possible that one or more web pages of a web site contains errors. These errors may only show up intermittently since much of the interaction with the web site can be dynamic, i.e. it can change from session to session. Therefore, the need has arisen for some method to test web sites for errors.*

In addressing this problem, Welter notes that, according to at least some conventional web site error testing techniques, the successful downloading of a web page in the prior art was usually considered sufficient to determine that that web page was error free (1:60-66).

However, according to Welter 2: 5-12, the simple downloading of web pages (with, perhaps, a cursory examination of the HTML) is often insufficient to determine all the errors that a user might encounter when actually interacting with those web pages.

It is noted that Welter refers to the term "regular expression" (albeit, *only once* in the entire specification of Welter) at column 8, line 5:

*Process control is then turned over to an operation 211 which takes measures based on the HTTP request and response, analyzes received HTML for expected content and errors using methods such as matching against string values, regular expressions, and calculated values and stores them in a database. (emphasis added)*

From this teaching of Welter, one may argue, at best, that Welter teaches using "regular expressions" to analyze received HTML for expected content and errors. Based upon the teachings of Welter as a whole, it is believed that such expected content includes deterministic data for which the specific content of such data may be predetermined (e.g., static content which can be predetermined and is expected to occur on static HTML web pages and/or dynamically generated HTML web pages), but does not include non-deterministic data such as customized or dynamically generated data for which the content of such data can not be predetermined. Moreover, there does not appear to be any teaching or suggestion in Welter for utilizing "regular expressions" to analyze received HTML for any unexpected content which, for example, may include non-deterministic data such as customized or dynamically generated data for which the content of such data can not be predetermined.

In contrast, the technique of the present invention may be used to analyze received HTML for unexpected content such as, for example, non-deterministic data such as customized or dynamically generated data for which the content of such data cannot be predetermined.

For example, according to different embodiments of the present invention may be used to perform health monitor status checks on web servers which return dynamically generated web pages containing dynamically generated content that may be unexpected, or continuously changing. Using conventional health monitoring techniques, including Welter, it would not be possible for the health monitoring device to verify that a valid time was returned since the content of the web page content is continuously changing and it is not possible to determine any "expected content."

However, in situations where the content of the web page may be unexpected and unknown, the inventive entity of the present application has recognized that it may still be possible to analyze the web page for errors, for example, by determining whether the dynamically generated web page content conforms with predefined formatting rules. Thus, for example, even though the specific web page content may be unknown or unexpected, such content may still be analyzed for errors using the techniques of the claimed invention.

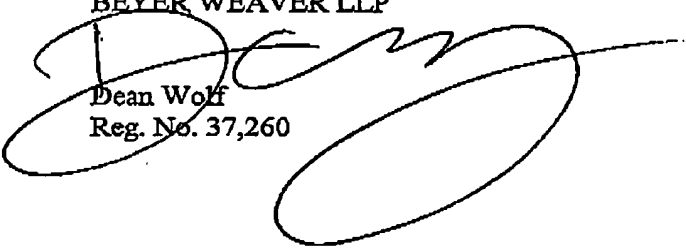
For example, as noted in Examples on pages 11-13 of the specification, the present inventive entity has recognized that at least some dynamically generated web page is may include non-deterministic content which may include, for example: a dynamically generated timestamp, a ticker symbol, a monetary value (of currency), etc., and that such non-deterministic content (although unknown) may be analyzed for formatting errors according to predefined formatting rules. It is respectfully submitted that the recognition and combination of these specific principles by the present inventive entity represents a novel and unobvious concept which is neither taught nor suggested in any of the prior are references.

It is noted that, in rejecting the claims of the present application under 35 U.S.C. Section 103 based upon the teachings of Welter and one or more of the other cited prior art references (e.g., Tiemann, Theimer, Slivka, etc.), the examiner has relied upon the teachings of Welter 8:1-8, in providing a basis for motivating one having ordinary skill in the art to combine the teachings of each reference in the manner suggested by the examiner. However, as indicated above, the teachings of Welter 8:1-8 relate only to the use of regular expressions for analyzing expected content and errors. Thus, it is submitted that the teachings of Welter, and specifically Welter 8:1-8, would not motivate one having ordinary skill in the art to art to combine the teachings of Welter and one or more of the other cited prior art references in order to use regular expressions for analyzing non-deterministic data which can not be predetermined. Accordingly, in addition to the arguments presented above, it is also believed that any presently pending claims directed to features which use regular expressions for analyzing non-deterministic data which can not be predetermined are unobvious over the cited prior art of record.

Additionally, it is noted that during a telephonic communication between the undersigned attorney and the examiner on 12/12/2006, it was agreed that static content of a web page does not correspond to non-deterministic data.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
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